

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

**Re: ECF Nos. 23518, 23529**

(Jointly Administered)

**URGENT CONSENSUAL OMNIBUS**  
**MOTION FOR EXTENSION OF DEADLINES**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), on behalf of the Commonwealth of Puerto Rico (the “Commonwealth”), pursuant to the authority granted to it under the *Enabling Act of the Fiscal Agency and Financial Advisory Authority*, Act 2-2017, respectfully submits this urgent consensual omnibus motion (the “Urgent Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

the deadlines set forth in the *Order Granting Urgent Consensual Omnibus Motion for Extension of Deadlines* (the “Omnibus Scheduling Order”)<sup>2</sup> [ECF No. 23529].

### **Background**

1. On September 24, 2021, two (2) separate groups of employees (collectively, the “DTOP Movants”) of the Puerto Rico Department of Transportation & Public Works (“DTOP,” for its initials in Spanish), an entity of the Commonwealth, filed an *Urgent Motion Requesting Order for Allowance and Immediate Payment of Administrative Expense* [ECF No. 18239] (the “DTOP Motion”), requesting that the Court enter an order (i) for “the allowance and payment of Juan Perez Colon and Jeannette Abrams Diaz Claims, in the total amount (collectively of \$48,124,313.58”, (ii) “ordering Debtor to pay such administrative expense within sixty (60) business days” of such order, (iii) directing the Court to direct the DTOP to continue “issuing payment of corresponding shortfall amounts on a monthly basis, as applicable to the individual claimants that continue working for the DTOP”; and (iv) granting “such additional relief as this Court deems just and necessary”. See, DTOP Motion at p. 18-19.

2. On September 28, 2021, twenty (20) active employees (the “ADFAN Movants” and together with the DTOP Movants, the “Movants”) of the Family with Children Administration (“ADFAN”), an entity of the Commonwealth, filed an *Urgent Motion for Allowance and Immediate Payment of Administrative Expense Pursuant to Section 503(b)(1)(A)(i) and (ii) of the Bankruptcy Code* [ECF No. 18277] (the “ADFAN Motion” and together with the DTOP Motion, the “Motions”), requesting that the Court enter an order (i) for the “allowance and payment of the Administrative Claim submitted, collectively, in the total amount of \$34,243,964.57”, (ii)

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<sup>2</sup> The Financial Oversight and Management Board for Puerto Rico, as the Commonwealth’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized AAFAF to file this Urgent Motion on behalf of the Commonwealth.

“ordering Debtor . . . to pay such administrative expense within sixty (60) business days” of such order, and (iii) granting “such other and further relief as the Court deems just and proper and granting such additional relief as this Court deems just and necessary.” See, *ADFAN Motion* at pp.

17. Both Motions assert separate justifications and amounts owed for, on the one hand, alleged services provided prior to the commencement of the Commonwealth’s Title III case (collectively, the “Pre-Petition Portion(s)”), and, on the other hand, for alleged services provided or other entitlement to payment on or after the commencement of the Commonwealth’s Title III case (collectively, the “Post-Petition Portion(s)”). See, *DTOP Motion* at pp. 6-7, ¶. 19 A., B.; see also, *ADFAN Motion* at p. 6, ¶ 18.

3. Pursuant to the Omnibus Scheduling Order, the deadline for the Commonwealth to separately respond to the Post-Petition Portions of each of the Motions is March 3, 2023, and the deadline for the Movants to file replies, if any, to such responses is March 13, 2023.

#### **Relief Requested**

4. The Commonwealth continues to make progress in gathering the necessary information to properly evaluate the allegations in the Motions, which process is still ongoing, among other things, because the exchange of information between the Commonwealth and the Movants has continued. During these exchanges, the parties have shared divergent positions as to the appropriateness of the relief requested in the Motions, but, upon the continued exchange of information and documentation, at this juncture, deem that a consensual settlement of the matters set forth therein is possible, and continue devoted to pursuing such goal.

5. In fact, the Commonwealth and the Movants remain in communications discussing several settlement proposals and alternatives that could result in an expeditious, amicable resolution of the matters set forth in the Motions.

6. Thus, although the reconciliation process in connection with the Motions and exchanges are ongoing and significant progress has been made, the same have not been finalized. Therefore, to continue this process, the Commonwealth reached out to Movants for their consent to extend the deadlines, who have consented to the relief requested herein.

7. Accordingly, the Commonwealth proposes the following extensions of the deadlines set forth in the Omnibus Scheduling Order to continue further discussions with Movants:

- The deadline for the Commonwealth to separately respond to the Post-Petition Portions of the Motions shall be extended to **March 20, 2023**.
- The deadline for Movants to file replies to the respective oppositions to the Post-Petition Portions of the Motions, if any, shall be extended **March 30, 2023**.
- Although the deadlines to respond to the Post-Petition Portions of the Motions and to file replies to the respective oppositions, if any, will fall on the same dates, such pleadings will be addressed separately.
- The Court will thereafter take the Post-Petition Portions of the Motions on submission, unless the Court determines that a hearing is necessary.

8. Pursuant to Paragraph I.H of the *Sixteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 20190-1] (the “Case Management Procedures”), the Commonwealth hereby certifies that it has carefully examined the matter and concluded that there is a true need for an urgent motion; it has not created the urgency through any lack of due diligence; has made a bona fide effort to resolve the matter without a hearing; has made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court, and no party opposes the relief requested herein.

**Notice**

9. The Commonwealth has provided notice of this Urgent Motion in accordance with the Case Management Procedures to the following parties: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtors' bonds; (c) the entities on the list of creditors holding the 20 largest unsecured claims against COFINA; (d) counsel to the statutory committees appointed in these Title III cases; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to the Oversight Board; (g) the Puerto Rico Department of Justice; (h) all parties filing a notice of appearance in these Title III cases; and (i) Movants. A copy of the Urgent Motion is also available on the Commonwealth's case website at <https://cases.primeclerk.com/puertorico/>.

10. The Commonwealth submits that, in light of the nature of the relief requested, no other or further notice need be given.

**WHEREFORE**, the Commonwealth requests the Court enter the Proposed Order and grant such other relief as is just and proper.

*[Remainder of page intentionally left blank]*

Dated: March 3, 2022  
San Juan, Puerto Rico

Respectfully submitted,

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**Exhibit A**  
**Proposed Order**

Hall Court, and other mobile homes within the trailer park in Princeton, West Virginia. Investigators believe that it is highly likely that James WALKER will have the targeted cellular device with him while at Belcher's Mobile Home Park. Investigators also located a residence in Kensington Court Apartments, specifically, 323 Kensington Court, Princeton, West Virginia. Investigators believe that the targeted cellular device will be located with James WALKER while he is at the apartment on Kensington Court. Investigators have also observed James WALKER frequent the trailers located throughout LJ Street, Princeton, West Virginia to coordinate with known co-conspirators. Investigators have observed James WALKER go to 152 LJ Street, Princeton, West Virginia. Investigators believe that it is highly likely that James WALKER will have the targeted cellular device in his possession while at the trailers on LJ Street, Princeton, West Virginia.

#### **MANNER OF EXECUTION**

19. In my training and experience, I have learned that cellular phones and other cellular devices communicate wirelessly across a network of cellular infrastructure, including towers that route and connect individual communications. When sending or receiving a communication, a cellular device broadcasts certain signals to the cellular tower that is routing its communication. These signals include a cellular device's unique identifiers.

20. To facilitate execution of this warrant, law enforcement may use an investigative device that sends signals to nearby cellular devices, including the Target Cellular Device, and in reply, the nearby cellular devices will broadcast signals that include their unique identifiers. The investigative device may function in some respects like a cellular tower, except that it will not be connected to the cellular network and cannot be used by a cell to communicate with others. Law

enforcement will use this investigative device when they have reason to believe that James WALKER is present. Law enforcement will collect the identifiers emitted by cellular devices in the immediate vicinity of the Target Cellular Device when the subject is in multiple locations and/or multiple times at a common location and use this information to identify the Target Cellular Device, as only the Target Cellular Device's unique identifiers will be present in all or nearly all locations. Once investigators ascertain the identity of the Target Cellular Device, they will cease using the investigative technique. Because there is probable cause to determine the identity of the Target Cellular Device, there is probable cause to use the investigative technique described by the warrant to determine the identity of the Target Cellular Device.

21. The investigative device may interrupt cellular service of cellular devices within its immediate vicinity. Any service disruption will be brief and temporary, and all operations will attempt to limit the interference of cellular devices. Once law enforcement has identified the Target Cellular Device, it will delete all information concerning non-targeted cellular devices. Absent further order of the court, law enforcement will make no investigative use of information concerning non-targeted cellular devices other than distinguishing the Target Cellular Device from all other devices.

**AUTHORIZATION REQUEST**

22. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41. The proposed warrant also will function as a pen register order under 18 U.S.C. § 3123.

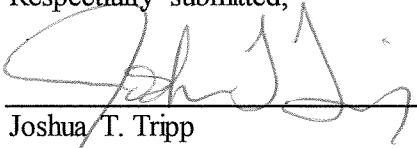
23. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days from the end of the period of authorized surveillance. This delay is justified because there is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the person carrying the Target Cellular Device would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). There is reasonable necessity for the use of the technique described above, for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

24. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to identify the Target Cellular Device outside of daytime hours.

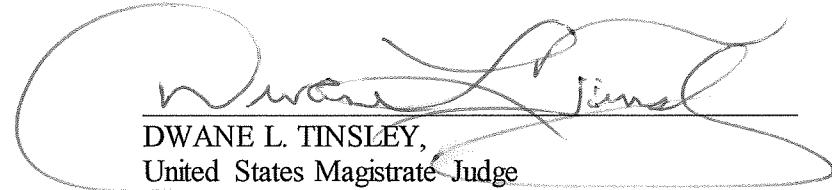
25. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

26. A search warrant may not be legally necessary to compel the investigative technique described herein. Nevertheless, I hereby submit this warrant application out of an abundance of caution.

Respectfully submitted,

  
Joshua T. Tripp  
Special Agent  
Drug Enforcement Administration

Subscribed and sworn to before me  
on June 26, 2019:

  
DWANE L. TINSLEY,  
United States Magistrate Judge

**ATTACHMENT A**

This warrant authorizes the use of the electronic investigative technique described in Attachment B when the officers to whom it is directed have reason to believe that James WALKER is present.

The locations James WALKER is known to frequent includes, but is not limited to, the following addresses located within the Southern District of West Virginia: 323 Kensington Court, Princeton, Mercer County, West Virginia; 878 Hall Court, Princeton, Mercer County; 862 Hall Court, Princeton, Mercer County, West Virginia; and 152 LJ Street, Princeton, Mercer County, West Virginia. This technique may be used at the following locations: James WALKER resides at 323 Kensington Court, Princeton, West Virginia. James WALKER commonly stays overnight at this address. 878 Hall Court, Princeton, West Virginia and 862 Hall Court, Princeton, West Virginia. James WALKER commonly spends the daytime hours at these locations to facilitate the distribution of narcotics at several other locations in Princeton, West Virginia. 152 LJ Street, Princeton, West Virginia. James WALKER will stop at this location to re-supply his runners and this is a known location to purchase narcotics from the James WALKER DTO.

**ATTACHMENT B**

The "Target Cellular Device" is the cellular device or devices carried by James WALKER, DOB: XX-XX-1977, a black male with short black hair, brown eyes approximately 5'11" and 150 lbs. Pursuant to an investigation of James WALKER for a violation of distribution and possession with intent to distribute controlled substances, conspiracy to commit and attempt to commit these offenses, and use of a communications facility in facilitating the commission of the foregoing offenses; this warrant authorizes the officers to whom it is directed to identify the Target Cellular Device(s) by collecting radio signals, including the unique identifiers, emitted by the Target Cellular Device(s) and other cellular devices in its vicinity for a period of thirty days, during all times of day and night.

Absent further order of a court, law enforcement will make no affirmative investigative use of any identifiers collected from cellular devices other than the Target Cellular Device(s), except to identify the Target Cellular Device(s) and distinguish it from the other cellular devices. Once investigators ascertain the identity of the Target Cellular Device(s), they will end the collection, and any information collected concerning cellular devices other than the Target Cellular Device(s) will be deleted.

This warrant does not authorize the interception of any telephone calls, text messages, or other electronic communications, and this warrant prohibits the seizure of any tangible property. The Court finds reasonable necessity for the use of the technique authorized above. *See* 18 U.S.C. § 3103a(b)(2).

**ATTACHMENT C**

To ensure technical compliance with the Pen Register Statute, 18 U.S.C. §§ 3121-3127, this warrant also functions as a pen register order. Consistent with the requirement for an application for a pen register order, I certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by the Drug Enforcement Administration.

*See* 18 U.S.C. §§ 3122(b), 3123(b).